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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

**JENNIFER WEBER-
PLESKACZEWSKI,**

Defendant and Appellant.

A125651

**(Contra Costa County
Super. Ct. No. 050903518)**

A police officer on nighttime patrol noticed a car being driven on the road with a single paper “dealer plate” rather than regular front and rear license plates. During the ensuing traffic stop to investigate whether the car was properly registered, the officer noticed for the first time that a document provided by the dealership that sold the car had been affixed to the right-hand corner of the front windshield. We conclude that the presence of the document did not deprive the officer of the reasonable suspicion necessary to support a traffic stop under the Fourth Amendment of the United States Constitution.

BACKGROUND

Officer Bevera of the Walnut Creek Police Department was driving north on Main Street at about 3:00 a.m. when he passed a black Mini Cooper driving south with no front license plate. As the car passed him, he looked back and saw that it also had no rear license plate, although it did have a paper “dealer plate” attached to the rear license plate area. Bevera did not notice any kind of temporary permit or sticker on the front

windshield. He was aware that new cars generally did not have license plates when they were purchased from a dealership, but he did not know whether the Mini Cooper was a brand new car.

Bevera activated his patrol car's overhead lights to make a traffic stop. The Mini Cooper did not pull over immediately, but made a turn and parked in an apartment complex driveway about a block away. Bevera contacted the driver, appellant Jennifer Weber-Pleskaczewski, and noticed that she had red and watery eyes, slurred speech and alcohol on her breath. He asked her for her registration and proof of insurance. She said the paperwork was at her home just down the street. Bevera wrote down the vehicle identification number located under the front left windshield to run a check, at which point he noticed a small piece of paper in the right corner of the front windshield. He examined it and determined that it was "the paper that you get from the dealership when you purchase a vehicle with the vehicle identification number on it." The paper was about three inches square, but the part that was actually visible from the outside of the car was only about one by two inches. Appellant was arrested and charged with driving under the influence after Bevera conducted several field sobriety tests.

Appellant filed a motion to suppress all evidence obtained during the traffic stop as the product of a Fourth Amendment violation. (Pen. Code, § 1538.5.) She argued at the hearing that in light of the paperwork located on the windshield, Bevera lacked the reasonable suspicion necessary to make the initial traffic stop to investigate the car's registration status. After the trial court denied the motion, appellant pled no contest to a felony count of driving under the influence with three prior convictions and was placed on probation with a two-year suspended prison sentence. (Veh. Code, §§ 21352, subd. (a), 23550.)

DISCUSSION

Appellant argues that the trial court should have granted her motion to suppress because the law permitted her to operate her new car without license plates so long as the necessary paperwork from the dealership was displayed. She claims it does not matter

that Officer Bevera did not see the paperwork before he pulled her over, characterizing this as a “mistake of law” that will not validate an otherwise illegal search. We disagree.

“ ‘A detention is reasonable under the Fourth Amendment when the detaining officer can point to specific articulable facts that, considered in light of the totality of the circumstances, provide some objective manifestation that the person detained may be involved in criminal activity.’ ” (*In re Raymond C.* (2008) 45 Cal.4th 303, 307 (*Raymond C.*)). In reviewing a ruling on a motion to suppress, we defer to the trial court’s factual findings if supported by substantial evidence and independently determine whether the challenged action by law enforcement was reasonable in light of those facts. (*People v. Woods* (1999) 21 Cal.4th 668, 673.)

When a car is sold by a dealership, the dealer must fill out a report of sale form required by the Department of Motor Vehicles. (Veh. Code, § 4456, subd. (a).) Though California law generally requires that a car driven on the roadway display valid front and rear license plates (Veh. Code, §§ 5200, 5201), a newly purchased car may be driven for up to six months without license plates if it displays a copy of the report of sale form. (Veh. Code, § 4456, subd. (c).) Although it appears that appellant was operating the Mini Cooper with the necessary paperwork when she was stopped by Officer Bevera, her display of that paperwork does not determine the legality of that stop. “The question for us is not whether the vehicle was in full compliance with the law at the time of the stop, but whether the officer had [an] articulable suspicion that it was not.” (*People v. Dotson* (2009) 179 Cal.App.4th 1045, 1049 (*Dotson*)).

Appellant relies on *People v. Hernandez* (2008) 45 Cal.4th 295, 297, 300 (*Hernandez*) to support her argument that in light of the documentation on her front windshield, Officer Bevera lacked reasonable suspicion that the missing license plates on the Mini Cooper violated the Vehicle Code. We are not persuaded. In *Hernandez*, the officer stopped a truck for having no license plates, *even though he had seen a valid temporary permit on the back windshield.* (*Id.* at p. 297.) Rejecting the People’s argument that the officer had acted reasonably because, in his experience, temporary permits are often forged or displayed on vehicles for which they were not issued, the

court explained, “An officer who sees a vehicle displaying a temporary operating permit in lieu of license plates may not stop the vehicle simply because he or she believes that such permits are often forged or otherwise invalid. To support a stop the officer must have a reasonable suspicion that the particular permit is invalid. Otherwise, any car with such a permit could be stopped without particularized cause.” (*Hernandez, supra*, 45 Cal.4th at p. 297; see also *People v. Nabong* (2004) 115 Cal.App.4th Supp. 1, 2-3.)

In *Raymond C.*, a companion case to *Hernandez*, the Supreme Court made it clear that the existence of a valid temporary operating permit does not render a traffic stop unreasonable if it is not seen by the officer before making the stop. (*Raymond C., supra*, 45 Cal.4th at pp. 305-308.) The defendant in *Raymond C.* was arrested for driving under the influence after he was stopped for a suspected license plate violation. (*Id.* at pp. 305-306.) The officer had seen the defendant operating the car without license plates or a temporary operating permit in the rear window, but he could not see whether a temporary permit had been placed in the front window. (*Id.* at p. 305.) After he stopped the car, the officer was advised by the defendant that the temporary permit was on the front window. (*Ibid.*) The court upheld the traffic stop, distinguishing *Hernandez* as a case in which the officer saw a temporary permit, but disregarded it. (*Raymond C.*, at p. 307; see also *People v. Saunders* (2006) 38 Cal.4th 1129, 1136 [court did not decide whether officer may stop vehicle with expired registration tab and temporary operating permit, but upheld traffic stop of truck based on its missing front license plate].)

Similar facts were considered in *Dotson, supra*, 179 Cal.App.4th at pages 1050-1052, in which the officer discovered weapons and drugs during the traffic stop of a pickup truck with no front or rear license plate. Although a temporary operating permit had apparently been placed on the back window, the officer did not recall looking for or seeing such a permit. (*Id.* at pp. 1050-1051.) The court determined the traffic stop was legal notwithstanding the temporary operating permit: “Absence of license plates on a vehicle provides reasonable suspicion that the driver is violating the law. Unless there are other circumstances that dispel that suspicion, that resolve any ambiguities in the legal status of the vehicle’s conformance with applicable laws, the officer may stop the

vehicle and investigate without violating the driver's Fourth Amendment rights. [Citation.] The uninvestigated chance that a temporary operating permit might be displayed somewhere in the vehicle is not such a dispelling circumstance.” (*Id.* at p. 1052.) The *Dotson* court specifically distinguished the facts before it from a case in which the officer actually *saw* a temporary operating permit before making a traffic stop to investigate a car being driven with no license plates. (*Ibid.*)

Unlike the arresting officer in *Hernandez*, and like the officers in *Raymond C.* and *Dotson*, Officer Bevera did not see the dealership documentation in the front window of appellant's car before he made the traffic stop. Based on the facts that were known to him at the time of the stop, he reasonably suspected that appellant was operating her car in violation of the Vehicle Code and was entitled to detain her to investigate this possible violation. While appellant was lawfully detained, Bevera observed additional facts that justified an investigation, and ultimately an arrest, for driving under the influence. Bevera's subsequent discovery of paperwork that supplanted the need for regular license plates did not render the initial stop a violation of the Fourth Amendment. (U.S. Const, 4th Amend.)

Appellant also relies on cases holding that the suspicion necessary to support a traffic stop may not be founded on a mistake of law. (See *People v. White* (2003) 107 Cal.App.4th 636, 643-644 [officer's mistaken belief that it was illegal for car registered in Arizona to display only one license plate did not support traffic stop]; *People v. Hernandez* (2003) 110 Cal.App.4th Supp. 1, 5 [traffic detention could not be based on officer's mistaken belief that the neon sign around the defendant's license plate was a violation of the Vehicle Code]; *People v. Ramirez* (2006) 140 Cal.App.4th 849, 852-853 [pedestrian did not violate Vehicle Code simply by crossing street outside a crosswalk; officer's belief to the contrary was mistake of law that could not support a detention].) The case before us does not involve a mistake of law. Officer Bevera plainly understood that notwithstanding Vehicle Code section 5200, a new car could be legally operated

without license plates if the paperwork from the dealership was displayed. He simply did not see the paperwork that would have excused the license plate requirement.¹

DISPOSITION

The judgment is affirmed.

NEEDHAM, J.

We concur.

JONES, P. J.

BRUINIERS, J.

¹ Nor can we say that Officer Bevera acted unreasonably when he failed to notice the paperwork before making the stop—the stop was made at night, and the portion of the paperwork that was visible from the outside of the car was approximately one inch by two inches.